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Bill Text: CA AB1993 | 2021-2022 | Regular Session | Introduced

California Assembly Bill 1993

CA State Legislature page for AB1993

Bill Title: Employment: COVID-19 vaccination requirements.

Spectrum: Partisan Bill (Democrat 10-0)

Status: *(Introduced)* 2022-03-17 - Referred to Coms. on L. & E. and JUD. [AB1993 Detail]

Download: California-2021-AB1993-Introduced.html

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL **NO. 1993**

Introduced by Assembly Members Wicks, Aguiar-Curry, Low, and Akilah Weber
(Principal coauthors: Senators Newman, Pan, and Wiener)
(Coauthors: Assembly Members Quirk and Stone)
(Coauthor: Senator Dodd)

February 10, 2022

An act to add Section 12940.4 to the Government Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1993, as introduced, Wicks. Employment: COVID-19 vaccination requirements.

Existing law, the California Fair Employment and Housing Act (FEHA), establishes the Department of Fair Employment and Housing within the Business, Consumer Services, and Housing Agency and sets forth its powers and duties relating to the enforcement of civil rights laws with respect to housing and employment.

Existing federal law, the Federal Food, Drug, and Cosmetic Act, authorizes the United States Secretary of Health and Human Services to approve new drugs and products, including vaccines, for introduction into interstate commerce, and authorizes the secretary to authorize vaccines for use in an emergency upon declaring a public health emergency. On February 4, 2020, the secretary determined that there is a public health emergency and declared circumstances exist justifying the authorization of emergency use of drugs and biological products. The secretary subsequently authorized the emergency use of 3 vaccines for the prevention of COVID-19, and on August 23, 2021, the secretary approved a vaccine for the prevention of COVID-19.

The California Emergency Services Act authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. On March 4, 2020, the Governor declared a state of emergency relating to the COVID-19 pandemic. Pursuant to this authority, the Governor issued several executive orders requiring individuals in specified employment, health care, school, or other settings to provide proof of a COVID-19 vaccination status, unless specified exceptions are met.

This bill would require an employer to require each person who is an employee or independent contractor, and who is eligible to receive the COVID-19 vaccine, to show proof to the employer, or an authorized agent thereof, that the person has been vaccinated against COVID-19. This bill would establish an exception from this vaccination requirement for a person who is ineligible to receive a COVID-19 vaccine due to a medical condition or disability or because of a sincerely held religious belief, as specified, and would require compliance with various other state and federal laws. The bill would require proof-of-vaccination status to be obtained in a manner that complies with federal and state privacy laws and not be retained by the employer, unless the person authorizes the employer to retain proof.

This bill would require, on January 1, 2023, each employer to affirm, in a form and manner provided by the department, that each employee or independent contractor complied with these provisions, and would require the employer to affirm that each new employee or independent contractor is in compliance at the time of hiring or contracting with that person. The bill would require the department to impose a penalty of an unspecified amount on an employer for any violation of these provisions.

This bill would repeal these provisions when the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices determines that COVID-19 vaccinations are no longer necessary for the health and safety of individuals.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

This bill would declare that its provisions are severable.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12940.4 is added to the Government Code, to read:

12940.4. (a) Notwithstanding any provision of this chapter or any other law, an employer shall require each employee or independent contractor to provide proof to the employer, or an authorized agent thereof, that the person has been vaccinated against COVID-19.

(b) For purposes of this section, the following definitions apply:

(1) "Proof" means valid documentation of the person's COVID-19 vaccination record, which may be their vaccine card or a copy or a digital version thereof, as provided by their health care provider, the State Department of Public Health, or another state or federal agency.

(2) (A) "Vaccinated against COVID-19" means that the person is fully vaccinated against COVID-19 by a vaccine authorized by the United States Food and Drug Administration or the World Health Organization.

(B) Notwithstanding subparagraph (A), a person is considered "vaccinated against COVID-19" for purposes of this section if the person has received the first dose of a two-dose COVID-19 vaccine authorized by the United States Food and Drug Administration or the World Health Organization, provides proof of that first dose, and provides proof of receiving the second dose of the vaccine within 45 days after receiving the first dose.

(c) (1) The requirement that a person be "vaccinated against COVID-19" pursuant to subdivision (a) does not apply to a person who is ineligible to receive a COVID-19 vaccine due to a medical condition or disability or because of a sincerely held religious belief that precludes the person from receiving a vaccination, subject to verification thereof, and in compliance with this chapter and other state and federal laws, including the reasonable accommodation provisions of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and Title VII of the federal Civil Rights Act of 1964 (Public Law 88-352).

(2) The department shall consult with the State Department of Public Health and the Division of Occupational Safety and Health to provide guidance to employers on what constitutes a medical condition or disability, or a sincerely held religious belief, for purposes of this subdivision.

(d) (1) Proof-of-vaccination status required pursuant to this section shall be obtained in a manner that complies with federal and state privacy laws and shall not be retained by the employer, unless the person authorizes the employer to retain proof.

(2) An employer or authorized agent that obtains proof-of-vaccination status pursuant to this section shall not share, transfer, or sell that information with or to a third party.

(3) The department shall provide guidance to employers on how to obtain and protect this information.

(e) (1) This section applies to both private and public employers.

(2) "Public employer," for purposes of this section, means:

(A) The state and every state entity, including, but not limited to, the Legislature, the judicial branch, the University of California, and the California State University.

(B) A political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

(f) (1) On January 1, 2023, each employer shall affirm, in a form and manner provided by the department, that each employee or independent contractor is in compliance with this section.

(2) After January 1, 2023, each employer shall affirm, in a form and manner determined by the department, that each new employee or independent contractor is in compliance with this section at the time of hiring or contracting with that person.

(g) The department shall impose a penalty of up to ____ dollars ($____) on an employer who violates this section.

(h) The Legislature finds and declares that protecting the public health and well-being of the people of California by requiring proof of vaccination against COVID-19 for employment pursuant to this section is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

(i) This section shall remain operative until the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices determines that COVID-19 vaccinations are no longer necessary for the health and safety of individuals, and as of that date is repealed.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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